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QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Written statement submitted by Article 19, a non-governmental organization on the Roster

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[15 March 1996]

General observations

1. Article 19 is deeply concerned that the debate over the right to development has become increasingly politicized and now appears to place greater emphasis on the right to development as a prerogative of nations 1/ than on the rights of individuals within nations.

2. The general principle of the right of individuals and peoples to participation is one of the basic tenets of the right to development. Over the past few years the United Nations has established that there is a direct relationship between participation and the rights of freedom of opinion and expression, access to information, and the freedoms of conscience, association and peaceful assembly.

3. Article 19 therefore recalls the following points to assist Governments and the United Nations Commission on Human Rights to adopt an approach to discussions that depends less on politics and more on the substance and principles from which the right to development was derived.

Summary points

4. The 1980 and 1981 studies entitled "The regional and national dimensions of the right to development as a human right", 2/ addressed factors that have an impact on development. Among them are (a) free choice by all people of the model for development; (b) participation by the masses in the definition and application of development policy; (c) non-discrimination of any kind in the exercise of the right to development; and (d) existence of effective safeguards against arbitrary action and in favour of respect for human rights.

5. The studies make it clear that respect for a range of specific human rights is a sine qua non for genuine and effective participation and that "[The] exercise of the various rights to participate may be as crucial in ensuring satisfaction of the right to food as of the right to take part in public affairs." 3/

6. Among the rights found to be particularly important to participation are the following:

(a) The rights to hold opinions and freedom of expression. These rights were seen to include the rights to know, to seek out and be given information, to impart information and to discuss issues of common importance. They were considered to be infringed when information is deliberately withheld or when false or distorted information is disseminated and when individuals or groups are silenced by intimidation or punishment, denied access to channels of communication or denied the opportunity to participate freely in public discussions; 4/

(b) The right to freedom of information. This right was considered to be of central importance to the promotion of the right to development and was understood to be based on the right of individuals and groups to have full details of relevant legislative and executive decisions. The right was seen to be severely tested by various actions including physical violence and intimidation, repressive legislation, censorship, bureaucratic obstruction, judicial obstruction and parliamentary privilege. 5/ Less visible obstacles to the right were seen to include economic and social constraints, de facto monopolies, narrow definitions of what constitutes news, what should be published and what issues should be debated, and entrenched cultural attitudes;

(c) The right to take part in the conduct of public affairs. This right was considered to be an essential element to the realization of the right to development. It was noted that "the existence of formal mechanisms for participation does not necessarily provide any guarantee of genuine popular participation". 6/ A number of factors that may limit participation were then identified, including limits arising from class position or ethnic character, token participation by the majority as a means of exerting control rather than facilitating the sharing power, 7/ and discriminatory ideologies.

7. It was also observed that "a development strategy based on repression and the denial of either civil and political rights or economic, social and

cultural rights, or both sets of rights, not only violates international human rights standards but is a negation of the concept of development." 8/ It was further noted that "there continue to be instances in which the implementation of national development strategies appears to be made either explicitly or implicitly dependent upon repression, or directly or indirectly violates other aspects of the right to development of peoples and individuals." 9/

8. Additionally, actions on grounds such as national security were used by States to deny the right to dissent and, further, that without freedom to dissent responsibly, "the creative developmental impulses of a society disappear." 10/

9. The relationship between development and democratic institutions was underlined in the Secretary-General's "An Agenda for Development". Reference is made to societies that are not administered on the basis of democracy and in which there is a population constrained to silence. 11/ Reference is also made to locally based NGOs which "give people a voice and an opportunity to articulate their needs, preferences and vision of a better society." 12/ The Agenda for Development clearly states that "without political participation in freedom, people will have no voice in shaping their individual and common destiny." 13/

Conclusion

10. In "An Agenda for Development" the Secretary-General stated that none of the dimensions relative to development can be treated in isolation.

11. Article 19 observes that the emphasis given to civil and political rights by some Governments is unhelpful. This single-minded emphasis ignores the fact that enjoyment of rights such as political and popular participation may well depend on an individual's economic and social situation in terms of establishing a permanent place of residence in order to enjoy membership in community, social and political associations or organizations and to vote in elections. This emphasis operates in isolation from the practical necessity of the need of individuals to have had access to an adequate level of education in order to understand and appreciate the issues to be debated through community associations or during campaigns and decided through elections. This emphasis operates in isolation from the practical need of individuals to enjoy an adequate standard of living, in all respects, in order to participate in decision-making processes at the local, community, regional, national and international levels.

12. Article 19 also observes that a number of the Governments most vigorously supporting the right to development are also those that use criminal and civil codes, national security laws and administrative measures to prevent individuals and groups from fully participating in decision-making processes. In addition to suppressing political expression, these Governments allow laws to remain on the books which infringe the right to development in areas such as denying women access to family planning information and discriminating against women through personal status laws, prohibiting the establishment of independent trade unions, prohibiting or seriously circumscribing the operation of independent media, restricting access to information on subjects

of public interest, suppressing the use of minority languages, infringing the right to freedom of conscience, belief and religion, and placing severe restrictions on the right to peaceful assembly. These Governments consistently repress the right to peaceful dissent and resort to arguments based on a supposed need to maintain discipline or political order and stability, or meet the imperative of modernization and nation-building.

13. In conclusion, Article 19 notes that the Working Group on the Right to Development, appointed by the Commission on Human Rights in 1993, has consistently referred to the needs to ensure popular participation and to create a strong civil society if the right to development is to be effectively implemented.

14. Article 19 reminds those Governments which continue to express reservations about the right to development that the Declaration on the Right to Development was intended to act as a bridging mechanism between civil and political rights and economic, social and cultural rights. Article 19 urges these Governments to take a more balanced approach to discussions and to support efforts promoting the link between freedom of opinion and expression and access to information, as they relate to development issues, with the right of individuals to an adequate standard of living, secure and permanent housing, access to education, access to an adequate standard of health care and a safe and clean environment.

15. Article 19 calls on those Governments that have most vigorously promoted the right to development and treated economic progress in isolation from many of the other dimensions of development to promote and protect the rights of individuals rather than focus on the prerogative of nations. Article 19 further calls on these Governments to give full weight and value to the right of participation. Article 19 insists that these Governments undertake a genuine process of reform and democratization in which the rule of law prevails and the rights to freedom of opinion and expression, the right to seek and receive information, the right to association, the right to belief, conscience and religion and the right to peaceful assembly are fully promoted and protected.

Notes

1/ General Assembly resolution 34/46 and Commission resolution 6 (XXXVI), para. 2, cited in E/CN.4/1421, para. 15 (d) (1980).

2/ E/CN.4/1421 and E/CN.4/1488.

3/ E/CN.4/1488, para. 98.

4/ Ibid., para. 100 (a) (b) (c).

5/ Ibid., para. 101.

6/ E/CN.4/1488, para. 108.

7/ Ibid.

8/ Ibid., para. 139.

9/ Ibid., para. 143.

10/ Soedjatmoko, "Freedom and Development", Development Forum (Geneva, DPI/UNU), vol. VIII, No. 7, September 1980, p. 4; cited in Ibid., para. 146.

11/ "An Agenda for Development", para. 127.

12/ Ibid., para. 107.

13/ Ibid., para. 211.